

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMEL CLARK,

Plaintiff,

-against-

GERALD GARDNER, et al.,

Defendants.

**STIPULATION AND
ORDER OF
DISCONTINUANCE
PURSUANT TO RULE 41(a)**

17-cv-0366
(DNH/TWD)

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned, Plaintiff, *pro se*, Jamel Clark, and the attorneys for Defendants Degraff, Karamanos, McElroy, and Harrison¹ (collectively, “Defendants”), parties to the above-entitled action (the “Action”), that, whereas no party hereto is an infant or incompetent person for whom a committee has been appointed, and no person not a party has an interest in the subject matter of the this Action, the Action be and the same hereby is settled on the particular circumstances of this Action, on the following terms and conditions, which it is agreed are of and shall have no legal precedential value in any other case either between the parties to this Action or any other parties:

1. Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, Plaintiff discontinues this Action with prejudice and without damages, costs, interest, or attorneys’ fees in excess of the amount specified below in Paragraph 5 of this agreement (hereinafter referred to as the “Stipulation”), under the conditions described in Paragraph 5 of this Stipulation, as against all Defendants. Plaintiff forever discharges and releases all Defendants, and the State of New York,

¹ All claims against Defendants Gardner, Smith, Lt. Palen, Ronald Farah, Anthony Annucci, D. Venettozzi, and Pingotti were dismissed in their entirety by way of the Order of the Hon. Judge David N. Hurd dated March 30, 2021. Dkt. 95.

including its agencies, subdivisions, employees, private contractors or assignees, of any and all claims, demands, or causes of action, known or unknown, now existing or hereafter arising, whether presently asserted or not, which relate in any way to the subject matter of this Action.

2. The parties agree that no provision of this Stipulation shall be interpreted to be an acknowledgment of the validity of any of the allegations or claims that have been made in this Action. The settlement of this Action is limited to the circumstances in this Action alone and shall not be given effect beyond the specific provisions stipulated to. This Stipulation does not form and shall not be claimed as any precedent for, or an agreement by the parties to, any generally applicable policy or procedure in the future.

3. Following the execution of this Stipulation, and it being ordered by the Court:

- a. Defendants shall pay to Plaintiff Jamel Clark the sum of one thousand four hundred and fifty dollars (\$1,450.00) in full settlement of any and all claims. The above amount shall constitute all sums to which Plaintiff is entitled, including but not limited to damages, costs, and attorney's fees.
- b. The foregoing payment shall be made by check for \$1,450.00, which will be mailed to Clinton Correctional Facility for deposit in Plaintiff's inmate account, or, in the event Plaintiff is transferred prior to the issuance of the check, to the correctional facility in which he is incarcerated at the time the check is mailed.

4. Payment of the amount specified in Paragraph 3 of this Stipulation is conditioned on the approval of all appropriate state officials in accordance with the provisions for indemnification under section 17 of the New York Public Officers Law. Plaintiff agrees to execute and deliver all necessary and appropriate vouchers and other documentation requested with respect

to obtaining such approval effectuating payment. Such documentation will be mailed to Plaintiff by agents of the Defendants responsible for the administrative processing of the settlement paperwork.

5. Payment of the amount referenced in Paragraph 3 of this Stipulation will be made no later than one hundred and twenty (120) days after the approval of this Stipulation by the Court, receipt by Defendants' counsel of a copy of the so-ordered Stipulation, and receipt by Defendants' counsel of all necessary documents referenced in Paragraph 4 of this Stipulation. However, if the provisions of Chapter 62 of the Laws of 2001 apply to the Plaintiff and the payment hereunder constitutes "funds of a convicted person" under the Son of Sam Law, the one hundred and twenty (120) day payment period shall be extended by an additional thirty (30) days to allow for compliance with that law.

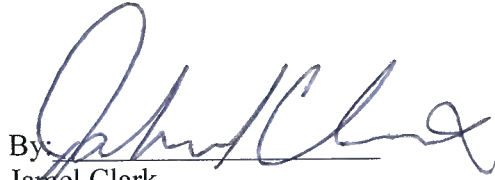
6. In the event that the terms of Paragraph 4 of this Stipulation are satisfied, but payment is not made within the 120-day period set forth in Paragraph 5 of this Stipulation, interest shall begin to accrue on the outstanding principal balance at the statutory rate on the 121st day after court approval, or the 151st day after court approval if the provisions of Chapter 62 of the Laws of 2001 apply to Plaintiff.

7. If the approvals referred to in Paragraph 5 of this Stipulation are not obtained, this Stipulation shall be null and void and this action shall then be placed back on the active docket without prejudice.

8. The foregoing constitutes the entire agreement of the parties.

9. Notwithstanding anything to the contrary herein contained, it is understood and agreed that this Stipulation is strictly restricted in its applicability to Case and File Number 9:17-cv-00366 (N.D.N.Y.) (DNH/TWD), concerning an incident or incidents which allegedly took place in October of 2014, at Shawangunk Correctional Facility, between the Plaintiff and the Defendants herein, and nothing else.

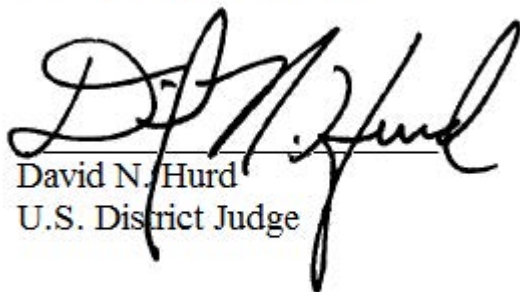
Dated: October 1, 2021
Dannemora, New York


By: 
Jamel Clark
Plaintiff
99-A-0475
Clinton Correctional Facility
P.O. Box 2000
Dannemora, NY 12929

Dated: October 26, 2021
Albany, New York

LETITIA JAMES
Attorney General of the State of New York
Attorney for Defendants
The Capitol
Albany, New York 12224-0341

IT IS SO ORDERED:


David N. Hurd
U.S. District Judge

By: 
David C. White
Assistant Attorney General, of Counsel
Bar Roll No. 700203
Telephone: (518) 776-2601
Email: David.White@ag.ny.gov

Dated: 11-30-2021